



October 23, 2000

Ms. Cathy S. Compton
Assistant District Attorney
County of Hays
110 East Martin Luther King
San Marcos, Texas 78666

OR2000-4100

Dear Ms. Compton:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 140467.

The Honorable Judge Sullivan, a Justice of the Peace in Hays County (the "county"), received a request for "correspondence regarding [a named individual's] bond, specifically any and all correspondence from the Hays County Sheriff's Department and Hays County District Attorney's Office which expresses the opinion that [the named individual] may not have committed the offense for which he was being held, as well as any and all correspondence in which either Hays County Sheriff's Department [or] Hays County District Attorney's Office request that [the named individual's] bond be reduced in any particular." You have provided for our review information that is responsive to the request. You assert that this information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.111 of the Government Code.¹ We have considered the exceptions you assert and reviewed the submitted information.

Section 552.108 of the Government Code, in pertinent part, states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). We assume that the submitted information is held by the Hays County Sheriff's Department, the Hays County District Attorney's Office, or both. You state that the related case is "still under investigation and in the pre-indictment stages." We therefore conclude that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *See Houston Chronicle Publ'g Co. v. City of*

¹You have submitted no comments or arguments in support of the section 552.101, 552.103, or 552.111 assertions. *See* Gov't Code § 552.301(e)(1)(A), (2). Accordingly, you may not withhold the information under these exceptions.

Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). Thus, the county may withhold the information under section 552.108(a)(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

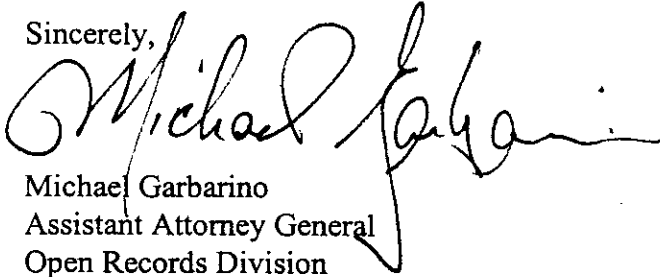
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino". The signature is fluid and cursive, with the first name "Michael" being larger and more prominent than the last name "Garbarino".

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/pr

Ref: ID# 140467

Encl. Submitted documents

cc: Mr. Bill McNabb
Attorney At Law
136 East San Antonio, Street
San Marcos, Texas 78666
(w/o enclosures)